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Article 12 of Magna Charta, and that knights and burghers sat together in Parliament after 1265 (p. 369, note 3 and p. 371), and English feudalism is given its death-blow in the Wars of the Roses (p. 178, note 10).

The bibliographies at the ends of the chapters are for the most part excellently adapted to the purposes of the book, and the comment is enlightening and useful. A few of them are too long, however, some works being included, it would seem, rather on the general reputation of the authors than on the consideration of their usefulness in this particular place and to this class of readers, *e. g.*, Palgrave's *History of Normandy and England* (p. 201); and occasionally a little too much deference is paid to traditional standard authorities. It is remarkable that a book of such great value as Emerton's *Mediæval Europe* is mentioned but twice, and then with no special emphasis.

It is perhaps unnecessary to add what is so well known of the author, that his style is very clear and vigorous, or on the other hand that he is prone to give his young readers most of the old catchy stories and sayings that historical criticism has spared and even some few that it has not. His new chapter on the universities and the schoolmen is a valuable and attractive addition; there is some confusion, however, in his use of the term scholasticism; in one place it is regarded as a method and style of thinking that may appear at any time, in another it is applied to all intellectual activity of whatever sort during a certain period. The book as a whole is interesting and very usable, and while it lacks throughout thoroughly scholarly caution and precision of statement, the author has attained a strong grasp of the period in its broader aspects, and his work has some very substantial and individual merits.

A. B. WHITE.

Tribal Custom in Anglo-Saxon Law. By FREDERICK SEEBOHM, LL.D., F.S.A. (London and New York: Longmans, Green and Co. 1902. Pp. xvi, 538.)

THE question of the structure of Anglo-Saxon society, which he long ago approached from the point of view of the manorial system, Mr. Seebohm in this volume approaches from the point of view of tribal custom. Believing that heretofore Anglo-Saxon institutions have been studied in too great isolation, he devotes more than half his work to a brief restatement of the conclusions reached in his *Tribal System in Wales*, and to a more detailed examination, in the light of the Cymric evidence, of the laws of the Irish, of the Burgundians and Visigoths, of the Franks, of the tribes conquered by the Merovingians and by Charlemagne, and of the Norse. When among all these tribes, except those upon whom Roman influences have been especially strong, he finds certain customs existing, he believes that it is not unreasonable to look for traces of these same customs in the laws of the Anglo-Saxons.

The study of tribal custom becomes in large part the study of the wergeld because the payment of the wergeld involved the principle of the solidarity of the kindred, "the strongest instinct which every-

where moulded tribal society." Of this solidarity of the kindred in the matter of the wergeld (of the right, that is to say, of the slayer to call upon his kindred to the fourth or even a more remote generation to aid him in the payment, and the corresponding right of the kindred of the slain to share in the receipt) Mr. Seebohm finds abundant evidence for most of the tribes. He finds, too, that, as in the Cymric group, so among the Norse and elsewhere, joint responsibility of the kin for the wergeld necessitated solidarity of the kin in landholding. For unless everyone in the kin had his "recognized tribal rights in land, unless he were possessed of cattle and rights of grazing for their maintenance, how could he pay his quota of cattle . . . to the wergeld?" The preservation of the family group and the family holding became, therefore, the most important question of tribal society. In *Beowulf*, as Mr. Seebohm shows in a short commentary on that poem, on the failure of male heirs the sister's son is called, even from the chieftainship of his paternal kindred, to maintain the kindred of his mother. Again, the Salian Franks settling between the Loire and the Garonne, were obliged to adopt a somewhat similar remedy in order to counteract the disintegrating influences of their Gallo-Roman neighbors. When there was danger among them of the lapse of *terra Salica*, between which and folkland as defined by Professor Vinogradoff Mr. Seebohm draws an interesting parallel, it was made possible for a woman to succeed to the alod, "the whole bundle of rights and possessions," real and personal, which passed by inheritance. So strong was the principle of the solidarity of the kindred that the church, even while striving to break down tribal customs in the interest of the Roman ideas of individual responsibility for crime and individual ownership of land, was forced in a number of cases to apply the wergeld system to her own ecclesiastical hierarchy.

Of even greater interest than the study of the solidarity of the kindred is Mr. Seebohm's use of the wergeld as an index to the ranks and gradations of tribal society. By a searching examination of the currencies in which wergelds are stated, an examination not always easy to follow, he finds the normal wergeld of the typical freeman of western Europe to be the equivalent in money of a "hundred head of cattle," following in this Professor Ridgway's suggestion that the ox was the equivalent of the gold stater. He finds, too, that the amount of their wergeld throws much light on the condition of the classes below the freemen, the Gallo-Romans, for example, whose wergeld was only half that of the Frank, the freedmen, or "the tribesmen in low position." It is upon these semidependent classes that Mr. Seebohm lays most stress, showing that the real explanation of their lack of freedom lies in the fact that they have not a perfect kin to swear for them or be responsible for their wergeld, and that they cannot attain to a full wergeld until they hold land and can point to four or more generations of landholding kin back of them.

The discussion of these customs of other tribes has not only much interest in itself but it also serves to suggest the lines Mr. Seebohm is to follow in his treatment of the Anglo-Saxon evidence and makes one

impatient to reach the later chapters of the work. Proceeding by his usual method, from the known to the unknown, Mr. Seebohm discusses the Anglo-Saxon laws from the Norman point of view, as seen in the so-called Laws of Henry I.; from the Danish point of view, as seen in the Institutes of London — of Cnut's reign, Mr. Seebohm thinks —, the fragment regarding grith and mund, and the Frith of 993; from the Northmen's point of view, as seen especially in Alfred and Guthrum's peace; from the Anglo-Saxon point of view, as seen in King Alfred's and King Ine's laws and the more Romanized laws of the Kentish kings. This method enables him easily to study Anglo-Saxon conditions in the light of continental evidence. From the prominence of wergeld in the Anglo-Saxon laws and the occurrence of "hints" as to other tribal customs not unlike the continental he argues that even down to the time of the Norman Conquest there was a strong tribal element in Anglo-Saxon life. It is impossible here to do more than state briefly some of his chief conclusions.

By a study of the procedure in the payment of the wergeld; by the definition of "manbot" as the payment to the lord of the man slain, and of "fightwite" as the payment to the lord on whose land the slaying takes place; and by a comparison of the evidence regarding grith and mund with the statements in the laws of other tribes with regard to the sanctity of the precinct, he seeks to show that the principle underlying sac and soc — terms coming in with the Danes, he thinks, — goes far back of Cnut's writ to the earliest tribal custom. In line with this statement are his conclusions regarding the division of classes among the Anglo-Saxons. Back from the so-called Laws of Henry I. to the laws of Alfred, with a single recognition of it in the laws of Ine, Mr. Seebohm finds a division of society into twelve-hyndemen and twy-hyndemen. The twelve-hyndeman is defined as the man with a full kindred of twelve hyndens of oath helpers, whose joint oath is valued at 120 hides; the twy-hyndeman is the man with only two hyndens of oath helpers, whose kindred that is to say, is incomplete. By identifying the wergeld of the twelve-hyndeman with the ancient Wessex wergeld of the ordinary freeman and by showing that this is the wergeld of the Englishman who is put on an equality with the Norse freeman in Alfred and Guthrum's peace, and may be related directly with the typical wergeld of a "hundred head of cattle," Mr. Seebohm endeavors to show that the twelve-hyndeman, or thane, is the typical Anglo-Saxon freeman; and that the twy-hyndeman, whose wergeld is one-sixth of the twelve-hyndeman's, is the "ceorl who sits on gafol land," put on an equality for the wergeld in Alfred and Guthrum's peace with the Danish "leysing," or freedman. That all ceorls are ceorls sitting on gafol-land Mr. Seebohm finds nothing in Alfred's laws to disprove; more than this, by an argument which does not seem to be conclusive, based in part on passages in which the fine for breaking the ceorl's precinct is stated to be one-sixth that for breaking the twelve-hyndeman's, he decides not only that the ceorlisc and twy-hynde classes are for general purposes "convertible terms," but

also that both were gafol-geldas, and that "by Alfred's time the chief practical division of classes had already resolved itself into that between the landed classes on one hand and their gafol-paying tenants on the other." The six-hynde class, the strangers in blood, Mr. Seebohm suggests, whose wergeld, like that of the Gallo-Roman, is fixed at half the freeman's, is "a rung in the ladder" by which the dependent classes once climbed into the possession of land and kindred, a rung which later dropped out.

Back of Alfred, Mr. Seebohm finds that the division into twelve-hynde and twy-hynde men practically disappears and a new division into gesithcund and ceorlisc men becomes prominent. These earlier and later divisions, however, he believes come to mean practically the same thing. From the value of the gesithcundman's oath, from King Ine's law regarding the 10 hides "to foster," and from the relation of the gesithcundman to the king, the interesting conclusion is drawn, but not proved, that the gesithcundman may have been given a ten-hide unit of land from which he was to pay the king's gafol, that is, the *firma unius noctis*, making for this purpose a part of his land gesetland held by gafol-payers in much the same position towards him that he is in towards the king. This dependence of one class upon another is not the result of degradation, but may be explained by the conditions of the original conquest. Thus proceeding along tribal lines alone, Mr. Seebohm would find early in English history something very like Professor Maitland's technical definition of a manor. The "free lordless villages" of Professor Maitland, which are, of course, a stumbling-block in the way of such early and wholesale manorialization, are ascribed to Danish influences.

However far one can go with Mr. Seebohm in some of these conclusions, — and he himself admits that approaching "a subject which has many sides from one side only necessarily results in the restatement rather than the solution of some problems" — it must be agreed that he has succeeded in elucidating some of the dark passages in Anglo-Saxon law, in giving new and very interesting meaning to many terms in that law, and in establishing his point that tribal custom must not be disregarded as one factor in Anglo-Saxon economic development.

N. NEILSON.

L'Empire Carolingien: ses Origines et ses Transformations. Par ARTHUR KLEINCLAUSZ. (Paris: Hachette. 1902. Pp. xvi, 611.)

Quomodo Primi Duces Capetianæ Stirpis Burgundiæ Res gesserint, 1032-1162. Thesim Facultati Litterarum Parisiensi proponebat A. KLEINCLAUSZ. (Dijon: Barbier-Marillier. 1902. Pp. viii, 116.)

It is doubtless to the French custom of requiring for the doctorate two theses, one in Latin and one in the vernacular, that we owe the simultaneous appearance of these two works. That this does not argue the youth of their author need not be pointed out to any who know what